

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS INSOLVENCY JURISDICTION
PETITION NO.75 OF 2004

Re: Santosh G. Nair & anr..Debtors.

Ex-parte:

The Bharat Co-operative Bank

(Mumbai) Ltd.

..Petitioning Creditor.

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Mr. G.R. Mehta for the Petitioning Creditor.

Ms. Betty D'Souza i/b M.P. Vashi & Associates for
the Judgment Debtors.

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CORAM : DR.D.Y.CHANDRACHUD, J.

15th February, 2005.

P.C. :

The Insolvency Petition is based on an award dated 15th January, 2004. The insolvency notice which was based thereon quantified the outstanding dues at Rs.34.67 lacs. A Notice of Motion was taken out for setting aside the insolvency notice. On 6th April, 2004, A.M. Khanwilkar, J. noted that the Motion had not been

served though it had been filed as far back as in December, 2003 and an adjournment was granted conditional on the payment of costs as stated in the order, failing which, the Motion was to stand dismissed for non-prosecution without further reference to the Court. On 20th April, 2004, the learned Single Judge passed an order recording that the Motion stood dismissed without further reference to the Court since no record had been produced before him to reflect compliance with the conditional order. In this Petition, time was taken on 1st February, 2005. But, no affidavit has been filed. The Insolvency Petition is, hence, required to be made absolute and is accordingly made absolute in terms of prayer clause (a).